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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,012	07/09/2003	Ching-Tien Lin	5315	8753

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EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT PAPER NUMBER

3676

DATE MAILED: 04/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/615,012

Applicant(s)

LIN, CHING-TIEN

Examiner

Gary Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5 and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 7, 8 and 10 is/are rejected.
- 7) ☒ Claim(s) 2, 9, 11 and 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claims 2, 7, 10, and 12 are objected to because of the following informalities :

Claim 2; last line - "aim" should be replaced with -arm-.

Claim 7; last line - "swine" should be replaced with -swing-.

Claim 10; line 3 - "b" should be replaced with -by-.

Claim 12; line 4 - --for- should be inserted before "making".

Claim 12; last line - "move" should be replaced with -moved-.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5, 7, 8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,947,534 to Zarzycki in view of U.S. Pat. No. 5,169,185 to Slaybaugh.

Zarzycki '534 teaches Applicant's claim limitations including : a "first opening unit" - including the bolt mechanism and operating portions of the door knob that are

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disposed interior of the door, "coupled to an opening member mounted on a surface of the fire door" - the door knob shown in upper portion of the Fig on the face of the Patent, "for operating a lock bolt of a lock bolt mount that is within the first opening unit" - 16, a "second opening unit" - the press bar assembly shown in lower portion of Fig on the face of the Patent, "comprises a base plate" - portion of 212 in contact with the door, a "handlebar" - 216. While the reference discloses structure that might conceivably be read on "horseshoes" limitations due to overall U-shape of assembled actuating portions (at 261b) etc as shown in Fig's 12B, 13, it is the examiner's position that structure corresponding more closely with what has been disclosed and identically with what has been claimed is long known in the art. U.S. Pat. No. 5,169,185 to Slaybaugh discloses (see Fig's 9, 10 for example) that "second horseshoes" - including 35, "actuators" - 13 bent in a U-shape in the center, "first horseshoes" - including 10, "push rod" - including 7, "swing arm" - including 51, having structure reading on all claim limitations are well known in the art of fire panic bar operating assemblies. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the panic bar assembly of Zarzycki '534 with integrally-formed horseshoes and actuators as taught by Slaybaugh '185 in order to reduce parts and reduce tolerance build-up for a tighter feeling in the assembly. One of ordinary skill in the art would have more than a reasonable expectation of success since the disclosed panic bar assemblies are generally equivalent as regards achieving retraction of a latch bolt in response to pressing of a panic bar press bar assembly.

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As regards claim 5, the actuator of Slaybaugh '185, as relied upon, is bent twice at ninety degrees each time to form the central portion and the end portions as they are shown.

As regards claim 7, Slaybaugh '185, as relied upon has a linkage member between the pushrod (7) and bolt (9) with three arms integrally coupled at the pivot where arm contacting bolt reads on "swing arm" and arm contacting the push rod reads on "link arm". It's noted that "coupled to" is broad and does not require direct contact but allows for intermediate elements. The law of anticipation requires that a distinction be made between the invention described or taught and the invention claimed. It does not require that the reference "teach" what the subject patent teaches. Assuming that a reference is properly "prior art," it is only necessary that the claims under consideration "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 789.

Allowable Subject Matter

4. Claims 2, 9, 11, and 12 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments with respect to amended claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 5,322,332 to Toledo.

U.S. Pat. No. 6,189,939 to Zehrung.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 703 308-0494. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Estremsky
Primary Examiner
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